

FILED

UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO
LAS CRUCES**

DEC 20 2021

CLB

MITCHELL R. ELFERS
CLERK OF COURT

9:55 AM

UNITED STATES OF AMERICA,

Plaintiff,

v.

NO. CR 21-1188-001 KG

DAMIAN GABRIEL AGUIRRE,

Defendant.

ORDER CONTINUING TRIAL SETTING

This matter is before the Court on Defendant's Motion to Continue Trial Setting (Doc. 127). The Court having reviewed the defendant's motion, having been advised that Assistant U.S. Attorney Kristopher Jarvis does not oppose this motion, and; further, the motion by Damian Gabriel Aguirre having been filed in accordance with the provisions of 18 U.S.C. § 3161(h)(7)(A) and it appearing that the ends of justice served by allowing this continuance outweigh the best interest of the public and the defendant in a speedy trial; the Court thus being fully advised in the premises finds that defendant's motion is well-taken and should be granted.

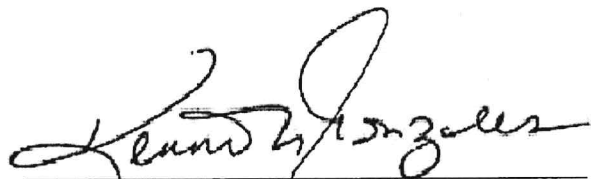
The Court having considered the motion to determine the appropriate length to continue the trial, being fully advised in the premises and in light of the holding in *United States v. Toombs*, 574 F.3d 1262 (2009), finds that the defendant has by his motion, created a sufficient record to justify granting the motion to continue. *See id.*, 574 F.3d at 1271 (requiring that record on motion to continue "contain an explanation of why the mere occurrence of the event identified by the party as necessitating the continuance results in the need for additional time").

This is defendant's first request for a continuance of trial. Defense counsel needs additional time to continue his investigation and finalize plea negotiations.

IT IS HEREBY ORDERED that Defendant's unopposed motion be granted; and that the trial setting is continued for sixty (60) days.

IT IS FURTHER ORDERED that Defendant's Motion to Continue Jury Trial Setting until the **March 7, 2022 trailing docket** be granted; and that pursuant to 18 U.S.C. § 3161(h)(7)(A), the delay resulting from the continuance shall be excluded for purposes of the Speedy Trial Act.

IT IS FURTHER ORDERED that **the Call of the Calendar is set for February 23, 2022.**

A handwritten signature in black ink, appearing to read "Leonard L. Gonzalez", written over a horizontal line.

UNITED STATES DISTRICT JUDGE